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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,935	07/29/2003	Tony Joseph Abshire	IPK- 022780-US	7508

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INTERNATIONAL PAPER COMPANY  
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EXAMINER
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ELKINS, GARY E

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/628,935

Applicant(s)

ABSHIRE ET AL.

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. Claims 1-8 and 10-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 3, “respective side panels” is a double inclusion insofar as the side panels are being reintroduced into the claim.

The following are each unclear insofar as one element appears to be recited with respect to a plurality of end panels, notches, etc., i.e. each is unclear with respect to how a single element is associated with a plurality of the respective elements within the context of the claim: claim 1, lines 2-4, “a hinged edge” and “a second fold line” (a single hinged edge and a single second fold with respect to a plurality of end panels and side panels?), claim 2, “a mouth” and “a base”, claim 10, “a mouth” and “a base”, claim 15, line 3, “a free edge” and “a hinged edge”, claim 16, “a mouth” and “a base”, claim 21, lines 3 and 11, “a second fold line”, “a mouth” and “a base”, claim 22, lines 11 and 12, “a mouth” and “a base”, claim 23, lines 3, 10 and 11, “a free edge”, “a hinged edge”, “a mouth” and “a base”, claim 24, lines 2-4, “a hinged edge”, “a free edge” and “the free edge”, claim 25, lines 2-4, same as claim 24 and claim 26, lines 2-5, “a hinged edge”, “a free edge”, “the free edge” (three occurrences).

The following are each unclear insofar as a plurality of the element were previously recited in the claims and one cannot determine which of the plurality is being referred to: claims 2, 10, 16, 21 (line 11), 22, (line 11) and 23 (line 10), “the free edge”.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 9 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Boutin et al. Boutin et al discloses two notches (10A, 10B, 12A, 12B, etc.) in the free edges of each of the end panels of a carton. Each of the notches is positioned an equal distance from one of the parallel fold lines closest to a respective one of the other notches insofar as claimed. Also, the end panels in Boutin et al are considered to remain substantially planar during and after folding into an interlocked position. With respect to claim 1, note is made that the entire free edge of each of the flaps 14A, 14B is considered to be located opposite the hinged connection of the respective flap as claimed. Also, each of the notches is further considered to be an equal distance from the closest fold line as compared to the other notches in the folded position at the point where they cross one another in the interlock.

4. Claims 1, 9, 15 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Jenkins. Jenkins discloses two notches (24, 30) in the free edges of each of the end panels of a carton. Each of the notches is positioned an equal distance from one of the parallel fold lines closest to a respective one of the other notches insofar as claimed. Also, the end panels in Jenkins are considered to remain substantially planar during and after folding into an interlocked position. Also, each of the notches is further considered to be an equal distance from the closest

fold line as compared to the other notches in the folded position at the point where they cross one another in the interlock.

5. Claims 15 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Stegner. Stegner discloses notches S1, S2, etc. within the outer edges of a blank. No distinction is seen between the blank claimed and that shown in Stegner as result of the claimed intended folding of the blank with the end panels remaining substantially planar during and after folding of the end panels to form an interlock, i.e. the blank of Stegner is considered capable of being folded with the panels remaining substantially planar by folding the panels into the carton until the ends of the slots meet and subsequently pushing the flaps outwardly into an end closing position.

***Allowable Subject Matter***

6. Claims 2-8, 10-14 and 16-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claims 21-24 and 26 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Response to Arguments***

8. Applicant's arguments filed 14 December 2005 have been fully considered but they are not persuasive.

The remarks assert that the patent to Boutin et al does not meet claims 1, 9 and 15 insofar as the notches in two of the end panels of Boutin et al are located in side edges of the end panels and the notches in the other two end panels are located in different edges of the end

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panels, i.e. the notches are asserted as not all being located in the free edges of the end panels or located equal distances from the fold lines between adjacent side panels as set forth in the claims.

In response, no distinction is seen between the location of the notches in Boutin et al and those claimed. As indicated in the previous office action, the notches in Boutin et al are positioned an equal distance from one of the parallel fold lines closest to a respective one of the other notches as claimed, e.g. the notch 28A is located an equal distance from the adjacent side panel fold line as compared to the notch 30A from the fold line closest to notch 30A. Stated another way, each notch is located an equal distance from the closest fold line as compared to another of the notches. Also, each of the notches is further considered to be an equal distance from the closest fold line as compared to the other notches in the folded position at the point where they cross one another in the interlock. With respect to the limitation in claim 1 that the free edges are opposite the hinged edges, entire free edge of the flaps 14A and 14B are considered to be "opposite" the folded connection of the flap. No distinction is therefor seen between the claimed carton/blank and that evidenced in Boutin et al.

The remarks are otherwise moot in view of the new grounds of rejection applied above.

### ***Conclusion***

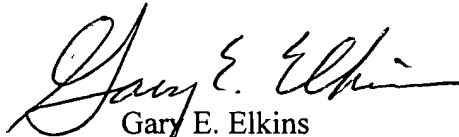
The newly cited patent to Reeves et al discloses a similar locking construction.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday, Tuesday and Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.

  
Gary E. Elkins  
Primary Examiner  
Art Unit 3727